

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,
v.

ROMAN ARAGON, *et al.*,
Defendants.

6:69-cv-07941-BB

RIO CHAMA STREAM SYSTEM
Section 7, Rito de Tierra Amarilla
Subfile No.: CHTA-004-0009B

NOTICE AND ORDER TO SHOW CAUSE

MARK L. MONTANO
6101 PICTURE ROCK PL. NW
ALBUQUERQUE NM 87120

KIM MONTANO
6101 PICTURE ROCK PL. NW
ALBUQUERQUE NM 87120

Subfile No.: CHTA-004-0009B

Ditch or Acequia

TIERRA AMARILLA COMMUNITY DITCH

Priority Dates

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority date for any other community or private ditch in the Rito de Tierra Amarilla Subsection of Section 7 ("Tierra Amarilla Subsection"). The priority dates proposed for these ditches are:

DITCH	PRIORITY DATE
Ismael Ulibarri Ditch	1870
Sena Ditch	1870
Nutritas Ditch No. 1	1870
Unnamed Ditch No. 1	1870
Lujan Ditch	1870
Labrier Ditch	1870
Nutritas Ditch No. 2	1861
Tierra Amarilla Community Ditch	1861
Trujillo Ditch	1887
Manzanares Ditch	1887
Unnamed Ditch No. 2	1887
Briggs Ditch	1887

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other individual water rights holders file objections.

Irrigation Water Requirements

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Tierra Amarilla Subsection as described below:

- a. The weighted consumptive irrigation requirements (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The term "Consumptive Irrigation Requirement" (CIR) refers to the quantity of water, expressed in acre-feet per year, exclusive of effective precipitation, that is consumptively used by plants

or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (FDR) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The Project Diversion Requirement” (PDR) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes those elements of your water rights and the water rights of other surface water users in the Tierra Amarilla Subsection as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Tierra Amarilla Subsection. Subsequent *inter se* proceedings in the Tierra Amarilla Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Tierra

Amailla Subsection as stated above, you must file the form entitled Objection and Response to and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN July 31, 2010:**

United States District Court Clerk
106 South Federal Place
Santa Fe, NM 87501

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights in the Tierra Amarilla Subsection. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

or,

John W. Utton
Attorney for Asociación de Acéquias
Norteñas de Arriba
Sheehan, Sheehan & Stelzner PA
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

/electronic signature/
VICKIE L. GABIN
SPECIAL MASTER